

Appl. No. 09/523,329  
Amendment dated November 23, 2004  
Reply to Office action of August 24, 2004

### **REMARKS/ARGUMENTS**

#### **Claims**

Claims 1 through 62 were in this application and are addressed by the Examiner in the present Office Action. Claims 13 through 20 and 46 through 53 are allowed. The present Amendment amends independent claims 1, 21, 28, 35, and 54, as well as dependent claim 61. Please cancel claims 6 and 60 without prejudice or disclaimer. The rejection and amendments to the claims are addressed below.

The Examiner is again thanked for the thorough review of the pending claims as well as the indication that certain claims are allowable and certain objected to claims may be re-written so as to overcome the objection so as to make them allowable.

#### **Rejections Under 35 U.S.C. §§ 103**

Claims 1 through 5, 12, and 35 through 39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Wheatly, III (5,437,055), hereafter "Wheatley" in view of Akerberg (US 6,483,826), hereafter "Akerberg."

In connection with a claim depending from claim 1, however, the Examiner indicates that claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Toward this end, claim 1 is amended to include the recitations of former claim 6, which previously read as follows:

6. The method according to claim 1 further comprising the step of altering the distinct delay associated with a derived version of the midamble signal and its respective antenna if and when an estimated path profile associated with the specific midamble signal changes from a prior estimated path profile.

Given this amendment, Applicants respectfully submit that amended claim 1 is in condition for allowance and, thus, so are its dependent claims 2 through 5 and 7 through 12.

Similar to the preceding, independent claim 35 is amended with language comparable to the amendment of claim 1. For at least this reason, Applicants respectfully submit that claim 35 is in condition for allowance and, thus, so are its dependent claims 36 through 45.

Regarding remaining independent claims 21 and 28, they are rejected (as are other claims) under 35 U.S.C. § 103(a) as being unpatentable over Wheatly in view of Juntti (US 5,564,074), hereafter "Juntti." However, both of these independent claims are amended with language comparable in certain respects to the amendment of claim 1, and

Appl. No. 09/523,329  
Amendment dated November 23, 2004  
Reply to Office action of August 24, 2004

which is neither shown nor rendered obvious by Wheatley and Juntti. Accordingly, Applicants respectfully submit that claim 21 is in condition for allowance and, thus, so are its dependent claims 22 through 27, and also, independent claim 28 is in condition for allowance and, thus, so are its dependent claims 29 through 34.

With respect to independent claim 54, the Examiner indicates that its dependent claim 60 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Toward this end, claim 54 is amended to include the recitations of former claim 60, which previously read as follows:

60. The time-division duplex (TDD) data communication system according to claim 54 wherein the variable delay means comprises:

a data processor;  
an algorithmic software directing the data processor; and  
a data storage unit, wherein discrete signal uplink data associated

with at least one mobile terminal in communication with the base station is stored and supplied to the data processor such that the data processor, directed by the algorithmic software, can automatically determine signal path profile parameters using algorithmically defined relationships associated with the discrete signal uplink data such that a signal communicated between the base unit and each antenna will be characterized by a signal delay distinct to each antenna.

In addition, the dependency of claim 61, which previously depended from claim 60, is amended to now recite to independent claim 54. Given these amendments, Applicants respectfully submit that amended claim 54 is in condition for allowance and, thus, so are its dependent claims 55 through 59 and 61 through 62.

Appl. No. 09/523,329  
Amendment dated November 23, 2004  
Reply to Office action of August 24, 2004

Conclusion

Reconsideration and favorable action are respectfully requested and, toward that end, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,



Stephen L. Levine  
Registry No. 33,413


Anderson, Levine & Lintel, L.L.P.  
14785 Preston Road, Suite 650  
Dallas, Texas 75254  
(972) 664-9552  
November 23, 2004

**CERTIFICATE OF FACSIMILE TRANSMISSION**

37 C.F.R. 1.8

The undersigned hereby certifies that this correspondence is being transmitted via facsimile on November 23, 2004, to the fax number of (703) 872-9306 of the following addressee:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450.



Stephen L. Levine  
Registry No. 33,413